



State of New Hampshire

PUBLIC EMPLOYEE LABOR RELATIONS BOARD

LONDONDERRY SCHOOL CUSTODIANS, :
 AFSCME, LOCAL 1801 :
 :
 Petitioner :
 :
 and :
 :
 LONDONDERRY SCHOOL BOARD :
 :
 Respondent :
 :

CASE NO. A-0448:5

DECISION NO. 84-62

APPEARANCES

Representing Londonderry School Custodians

James C. Anderson, AFSCME

Representing Londonderry School Board

Robert P. Leslie, Esq.

Also in Attendance:

Craig Young
 William Cox, Administrative Assistant
 Edward B. Garone, Chief of Police
 Gary W. Wulf, Negotiator

BACKGROUND

On January 9, 1984, AFSCME Council 68, on behalf of its local 1801, Londonderry Custodians (Union) filed a request for Declaratory Ruling with the PELRB and also requested a hearing on the petition. A dispute had arisen between AFSCME and the Londonderry School Board's (Board) negotiator on or about November 27, 1983. AFSCME maintained that the School Board had not given its negotiator the power to bind the Board, contrary to RSA 273-A and PELRB Decision #83-47, a recent Derry Police Department case, and did not permit the employer to "bargain in good faith" as required by law.

In their response, the Board denied any violation of RSA 273-A and particularly argued that both teams had the power to reach "tentative agreements" subject to ratification by their respective groups.

Motions to intervene were filed by Mr. Gary Wulf on behalf of the Town of Hudson and by Attorney Alan Hall on behalf of the Town of Londonderry and both motions were granted.

A hearing was held at PELRB office in Concord, N.H. on May 31, 1984 with all parties represented.

FINDINGS OF FACT AND OPINIONS OF LAW

At hearing it was ascertained that both parties had continued their negotiation despite their disagreement on ground rules, and had arrived at an agreement on a new three-year contract (therefore declaratory opinion here).

The case before us involves a legal argument over whether or not agent(s) for the Board are required to have the ability to bind the Board in the negotiations by virtue of the requirement of RSA 273-A:3 for "good faith" negotiations.

The union argued, referring to the recent Derry Police case (IBPO, Local 565, Derry, N.H. v. Town of Derry, 83-47), that the Board's negotiating team must have the power to bind the employer, except for money matters which, by law, must be submitted to the school district as the supreme legislative authority.

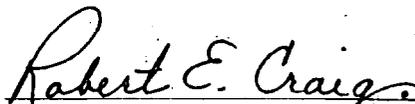
The Town argued that the Derry Police case merely urged that the negotiators know the powers that each had and that, if possible, these be spelled out in agreed upon ground rules. The Town further argued that both sides in the negotiation need only have the ability to reach a "tentative" agreement" (T/A) which then must be agreed to by the respective governing body of both the employer, (selectmen in non-cost, district meeting on cost items) and the employees' exclusive representatives.

Intervener Wulf (for the town of Hudson) pointed out that the process provides for an "equilibrium" between the two sides which enables agreements to be reached and should not be made inflexible.

Intervener Hall (for the Selectmen of Londonderry) urged that the PELRB find that only "tentative agreements" (T/A's) are called for and that negotiators are required to support the tentative agreements they have negotiated.

DECLARATORY OPINION

The PELRB finds that the law does not require the negotiating agents to have full binding power; negotiators with the ability to reach "tentative agreements" must be construed as "bargaining in good faith" so long as they adhere to the instructions of their principals and honestly bargain and understand that they must also support the "tentative agreements" thus reached when they take the results to their respective ratifying agents.


ROBERT E. CRAIG, Chairman

Signed this 23rd day of August, 1984.

By unanimous vote. Chairman Craig presiding. Members Seymour Osman, Richard Roulx and Russell Verney present and voting. Also present, Evelyn C. LeBrun, Executive Director.